

Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, at 5 U.S.C. 601, *et seq.*, because contracts and subcontracts awarded to small businesses are exempt from the Cost Accounting Standards.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Parts 30 and 52

Government procurement.

Dated: August 4, 2009.

Al Matera,

Director, Office of Acquisition Policy.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 30 and 52, which was published in the **Federal Register** at 73 FR 54011 on September 17, 2008, is adopted as a final rule without change.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

[FAC 2005-36; Item VII; Docket 2009-0003, Sequence 4]

Federal Acquisition Regulation; Technical Amendments

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to make editorial changes.

DATES: *Effective Date:* August 11, 2009.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1800 F Street, NW., Room 4041, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-35, Technical Amendments.

SUPPLEMENTARY INFORMATION: This document makes amendments to the Federal Acquisition Regulation in order to make editorial changes.

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

Dated: August 4, 2009.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 32 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 32—CONTRACT FINANCING

32.503-9 [Amended]

■ 2. Amend section 32.503-9 in paragraph (a)(7) by removing paragraph “(a)(4)” and adding paragraph “(a)(5)” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.213-4 [Amended]

■ 3. Amend section 52.213-4 by revising the date of the clause; and removing from paragraph (a)(2)(vi) “(Mar 2009)” and adding August 11, 2009 in its place.

■ 4. Amend section 52.244-6 by—
■ a. Revising the date of the clause; and
■ b. Revising paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(iii), (c)(1)(vii), and (c)(1)(ix) to read as follows: 52.244-6 Subcontracts for Commercial Items.

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SUBCONTRACTS FOR COMMERCIAL ITEMS (August 11, 2009)

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(c)(1) * * *

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds \$5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures

of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act. (iii) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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(vii) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201), if flow down is required in accordance with paragraph (g) of FAR clause 52.222-39.

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(ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2009-0002, Sequence 7]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-36; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This Small Entity Compliance Guide

has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–36 which amend

the FAR. Interested parties may obtain further information regarding these rules by referring to FAC 2005–36 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, FAR Secretariat, (202) 208–7282. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2005–36

Item	Subject	FAR case	Analyst
I	Federal Technical Data Solution (FedTeDS)	2008–038	Loeb.
II	Fair Labor Standards Act and Service Contract Act Price Adjustment Clauses	2007–021	Murphy.
III	New Designated Country—Taiwan	2009–014	Murphy.
IV	Prohibition on Restricted Business Operations in Sudan and Imports from Burma	2008–004	Murphy.
V	List of Approved Attorneys, Abstractors, and Title Companies	2006–013	Chambers.
VI	Cost Accounting Standards (CAS) Administration and Associated Federal Acquisition Regulation Clauses.	2007–002	Chambers.
VII	Technical Amendments		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005–36 amends the FAR as specified below:

Item I—Federal Technical Data Solution (FedTeDS) (FAR Case 2008–038)

This final rule amends the Federal Acquisition Regulation (FAR) subparts 5.1, 5.2, and 7.1 to remove all references to the Federal Technical Data Solution (FedTeDS) System, and refer to the enhanced capabilities of the Governmentwide Point of Entry (GPE) system. The FedTeDS system was used to post on-line technical data packages and other items associated with solicitations that required some level of access control. It was interfaced directly with the GPE system. In April 2008, the newest version of the GPE was launched. This version incorporated the capabilities of FedTeDS, allowing the FedTeDS system to be retired. This rule will only have a slight impact on Government. It will inform and direct both internal and external users to the new system and website. This rule does not have a significant impact on any automated systems.

Item II—Fair Labor Standards Act and Service Contract Act Price Adjustment Clauses (FAR Case 2007–021)

This final rule amends the Federal Acquisition Regulation (FAR) to specifically require the incorporation of FAR clauses 52.222–43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) and 52.222–44, Fair Labor Standards Act and Service Contract Act—Price Adjustment, in

time-and-materials and labor-hour service contracts that are subject to the Service Contract Act.

Item III—New Designated Country—Taiwan (FAR Case 2009–014) (Interim)

This interim rule implements in FAR Parts 22, 25, and 52, as appropriate, the designation of Taiwan under the World Trade Organization Agreement on Government Procurement, which took effect on July 15, 2009. This FAR change allows contracting officers to purchase goods and services made in Taiwan without application of the Buy American Act if the acquisition is covered by the World Trade Organization Agreement on Government Procurement.

Item IV—Prohibition on Restricted Business Operations in Sudan and Imports From Burma (FAR Case 2008–004)

This final rule converts the interim rule published in the **Federal Register** at 73 FR 33636 on June 12, 2008, to a final rule with changes. This final rule implements Section 6 of the Sudan Accountability and Divestment Act of 2007, which requires certification in each contract entered into by an executive agency that the contractor does not conduct certain business operations in Sudan. In addition, in accordance with Executive Orders 13310 and 13448, the Councils added Burma to the list of countries from which most imports are prohibited.

Item V—List of Approved Attorneys, Abstractors, and Title Companies (FAR Case 2006–013)

This final rule amends Federal Acquisition Regulation (FAR) 28.203–3 and 52.228–11 to update the procedures for the acceptance of a bond with a security interest in real property. The FAR has relied on the Department of

Justice (DOJ) to provide a “List of Approved Attorneys, Abstractors, and Title Companies”. However, DOJ has discontinued maintenance of the List. Replacing the List, DOJ published “Title Standards 2001”, establishing the evidence requirements for acceptance of title to real property for individual sureties.

The rule also provides that in lieu of evidence of title that is consistent with DOJ standards, that sureties may provide a mortgagee title insurance policy in an insurance amount equal to the amount of the lien.

Item VI—Cost Accounting Standards (CAS) Administration and Associated Federal Acquisition Regulation Clauses (FAR Case 2007–002)

This final rule converts, without change, the interim rule published in the **Federal Register** at 73 FR 54011 September 17, 2008. No comments were received in response to the interim rule. The interim rule amended the Federal Acquisition Regulation (FAR) to revise FAR 30.201–4(b)(1) and FAR 52.230–1 through 52.230–5 to maintain consistency between the Federal Acquisition Regulation (FAR) and Cost Accounting Standards (CAS) regarding the administration of the CAS Board’s rules, regulations and standards.

Effective June 14, 2007, the CAS Board amended the contract clauses contained in its rules and regulations at 48 CFR 9903.201–4, pertaining to the administration of CAS, to adjust the CAS applicability threshold in accordance with section 822 of the 2006 National Defense Authorization Act (Pub. L. 109–163). That section amended 41 U.S.C. 422(f)(2)(A) to require that the threshold for CAS applicability be the same as the threshold for compliance with the Truth in Negotiations Act (TINA).

Item VII—Technical Amendments

Editorial changes are made at FAR 32.503–9, 52.213–4, and 52.244–6.

Dated: August 4, 2009.

Al Matera,

Director, Office of Acquisition Policy.

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